

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 9TH FEBRUARY 2007 / 20TH MAGHA 1928

WP(C).No. 3926 of 2007(P)

PETITIONER:

**M/S. P.H. MOHAMMED KUNJY & BROTHER,
DEALERS IN IRON & STEEL, MARKET ROAD,
ERNAKULAM, COCHIN 35, REP. BY ITS
PARTNER, P.H. MOHAMMED KUNJU.**

BY ADV. SRI.A.KUMAR

RESPONDENTS:

- 1. THE DEPUTY COMMISSIONER (A),
COMMERCIAL TAXES,
ERNAKULAM.**
- 2. THE ASST. COMMISSIONER,
COMMERCIAL TAXES, SPECIAL CIRCLE-1,
ERNAKULAM.**

BY GOVERNMENT PLEADER SMT. N.SUDHADEVI

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K.BALAKRISHNAN NAIR,J.

WP(C)NO.3926 OF 2007-P

Judgment

The petitioner is a dealer under the KGST Act. The sales tax for the years 1998-99 and 1999-2000 was assessed as per Exts.P1 and P2 orders respectively. The Deputy Commissioner suo motu revised those orders and directed passing fresh assessment orders. In the light of the decision of the Deputy Commissioner, notices under Section 17(3) of the KGST Act Exts.P3 and P4 were served on the petitioner on 25.10.2006, directing it to file its objections, if any, within seven days from the date of receipt of those notices. The petitioner submits, those notices were served on it only on 25.10.2006. The time limit for filing the objections was to expire on 01.11.2006. But, the revised assessment orders Exts.P7 and P8 were passed on 31.10.2006. Hence this Writ Petition, challenging Exts.P7 and P8. The learned Government Pleader, upon instruction, submitted that the notices under Section 17(3) Exts.P3 and P4 were actually served on the petitioner only on 25.10.2006. If that be so, the orders were passed even before the time limit for filing the objections was over. So, the revised assessment orders Exts.P7 and P8 are passed in violation of the principles of natural justice. Accordingly, they are quashed. The 2nd respondent will be free to pass fresh revised assessment orders in the matter after affording an opportunity of being heard to the petitioner.

The Writ Petition is disposed of as above.

09.02.2007

K.BALAKRISHNAN NAIR,JUDGE

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